



# Chalon Indian Nation

## Chalon Indian Council of Bakersfield

P.O. Box 902 Bakersfield, CA 93302

(661) 834-2056

[www.ChalonIndianNation.org](http://www.ChalonIndianNation.org)

ID # 77-0497687

August 12, 2013

Office of Regulatory Affairs & Collaborative Action – Indian Affairs  
1849 C Street, NW  
MS 4141-MIB  
Washington, DC 20240

To Whom It May Concern:

The Chalón Indian Nation enthusiastically endorses the comments and suggestions put forth by the intertribal coalition of non-recognized coastal California tribes regarding proposed changes to Part 83 of the federal acknowledgment process. We feel that the Bureau of Indian Affairs' recognition rules and procedures have been arbitrarily, capriciously, and unnecessarily unfair to tribes historically located on California's central coast, which with one exception (the Santa Ynez Chumash) are not recognized, and we would like to see this concern addressed. The process is too expensive, difficult, and takes too long to complete. This situation cries out for reform. We are grateful to have the opportunity to comment on the proposed changes, and feel that we would be remiss if we did not participate.

For untold generations, our Chalón ancestors lived in a large area surrounding the present-day Pinnacles National Park, East of Soledad, California, speaking our own language, and practicing our traditional culture and way of life. Our first contact—which is documented—came with the Spanish invasion of our territory in the 1790s, and the forced relocation of our people to Mission Soledad. Our people have since existed in subjugation to colonial governments for roughly 220 years. By the mid- to late-1800s, our people had been relocated to the Bakersfield area. After years of assimilation, the US government fabricated our identity by giving our people identification cards saying that we were Chumash or Costanoan, which are different peoples. The Chalón Indian Nation, a distinct cultural group, would welcome the opportunity to have a more equitable relationship with the United States government, which is only currently possible via the acknowledgment process.

We submitted our letter of intent in October 5, 2005, as the Chumash Council of Bakersfield (Petition #294), and hired our tribal anthropologist in July, 2008. Subsequently, we changed our physical address and the name of our tribe from Chumash to the Chalón Indian Nation in October, 2010. We do have a membership list of about 600 citizens, and membership criteria, which has not yet been submitted due to changes that need to be ratified. We have a genealogical chart that is under construction. Our Elders are currently writing their stories of where they lived and how they stayed together all those years. We had a lot of interactions as Chumash in the local community with agencies of government in Bakersfield. However, it took from October 10, 2010 to the present day to accept changes to our historical narrative and make changes to our non-profit status. There is a lot of work that we as a Nation have to do, but we are diligently working under the acknowledgement rules set by the OFA. That is why we are concerned about the process.

Furthermore, we wish to highlight the following points:

1. A Preamble needs to be added stressing that the goal of the changes is to make the regulations more consistent with the intent of Cohen's criteria and reflective of the way in which early petitions received favorable determinations. The Preamble should also include an analysis of why the year of the Indian Reorganization Act of 1934, which marked a new relationship between the Federal Government and American Indian tribes, is the starting point instead of a much older date relating historic "first contact." The preamble should clearly state that the Department of Interior's aim is for the process to be predictable, policy-based instead of an overly rigorous scientific evaluation, and less cumbersome for petitioners. A "presumption" statement should be added, clearly indicating that it should be presumed that the burden of proof is on the Department of the Interior instead of the tribe when evaluating evidence provided by the tribe... and that it shall be presumed that if a tribe existed in 1934, that tribe descended from an historical tribe at the time of contact with nine Indians, shifting the meaning of "historic" in the regulations to refer to distinct communities identified as such by 1934.
2. The Assistant Secretary should have greater control over the Office of Federal Acknowledgment (OFA), with OFA playing more of an advisory and supportive role and not making final determinations, leaving such final decisions to the Assistant Secretary. The new regulations appear to give too large a role to OFA, whose application of the regulations to this point has been resoundingly critiqued by tribal, academic, and governmental entities. OFA should be held to an objective standard of accountability with the regulations clarifying timelines in which OFA must complete its tasks and provide for consequences when those timelines are not met. OFA's role should be merely supportive with the final determinations to be made by the Assistant Secretary, with a petitioner having the right to have a negative decision by the Assistant Secretary appealed to OHA and/or the IBIA, with the petitioner also having the ability to provide additional evidence to further strengthen their petition, and with a time limit on the duration of the ruling on an appeal. OFA should provide a consistent document to the Assistant Secretary, summarizing how a petitioner may have met the criteria, with a "more likely than not" standard granting preference to the petitioner, ensuring that the strengths of a petition are emphasized over any weaknesses.
3. The new regulations should directly overrule past OFA precedents in negative findings because they will be inconsistent with the new regulations.
4. It should be clearly stated that the types of evidence previously used to meet the now deleted criteria (a) may be used, when applicable, to meet criteria (b) and (c).
5. Gaps of less than 20 years should not be negatively interpreted when the strength of the evidence prior to and after such gaps demonstrate continuity. Gaps of up to 25 years should be taken into consideration if the weight of the evidence can demonstrate community continuity.
6. Petitions for acknowledgement should not need to exceed 50 pages, excluding supportive documentation. Petitions should be able to be submitted in electronic format.
7. Historic or modern third party nomenclature racially misidentifying or mislabeling a tribe shall not be weighed against a tribe, but may be considered as evidence supporting the petitioner's claim of being a "distinct" community.
8. Regional history that may impact the evidence a petitioner can provide should be considered when evaluating a petition so that a petition is not penalized by the manner in which a petitioner may have been affected by such historical situations.

17. Third parties should not be able to derail a positive final decision unless fraud is being alleged against the petitioner's claims and there is evidence to substantiate the need for further investigation.

Thank you for your consideration of our comments about the proposed changes to Part 83, concerning the acknowledgement of previously unrecognized tribes.

Sincerely,

The Chalon Indian Council of Bakersfield, Board of Directors

A handwritten signature in black ink, appearing to read "Tim Lomas", with a long horizontal flourish extending to the right.

Tim Lomas, Tribal Chairman